

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

GRACE D. SOLOMON,

Plaintiff,

MEMORANDUM & ORDER
18-CV-0005 (MKB) (CLP)

v.

BILL DE BLASIO, CARMEN FARINA,
BARBARA FREEMAN, SHANI JIMETA,
SYLVIA WALLACE-ANDERSON, JULIA
MORTLEY, and NEW YORK CITY DEPARTMENT
OF EDUCATION,

Defendants.

MARGO K. BRODIE, United States District Judge:

Plaintiff Grace D. Solomon, commenced the above-captioned action on January 2, 2018, against Defendants Bill de Blasio, Carmen Farina, Barbara Freeman, Shani Jimeta, Sylvia Wallace-Anderson, Julia Mortley, and the New York City Department of Education, asserting a First Amendment retaliation claim pursuant to 42 U.S.C. § 1983. (Compl., Docket Entry No. 1.) On September 5, 2018, Defendants moved to dismiss the Complaint as partially time-barred and for failure to state a claim pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. (Defs. Mot. to Dismiss, Docket Entry No. 28.) On October 11, 2018, the Court referred the motion to Magistrate Judge Cheryl L. Pollak for a report and recommendation. (Order dated Oct. 11, 2018.) By report and recommendation dated December 18, 2018, Judge Pollak recommended that the Court grant Defendants' motion in its entirety, and dismiss the Complaint (the "R&R"). (R&R 19, Docket Entry No. 30.)

A district court reviewing a magistrate judge's recommended ruling "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge."

28 U.S.C. § 636(b)(1)(C). “Failure to object to a magistrate judge’s report and recommendation within the prescribed time limit ‘may operate as a waiver of any further judicial review of the decision, as long as the parties receive clear notice of the consequences of their failure to object.’” *Sepe v. N.Y. State Ins. Fund*, 466 F. App’x 49, 50 (2d Cir. 2012) (quoting *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997)); *see also Almonte v. Suffolk Cty.*, 531 F. App’x 107, 109 (2d Cir. 2013) (“As a rule, a party’s failure to object to any purported error or omission in a magistrate judge’s report waives further judicial review of the point.” (quoting *Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003))); *Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C.*, 596 F.3d 84, 92 (2d Cir. 2010) (“[A] party waives appellate review of a decision in a magistrate judge’s report and recommendation if the party fails to file timely objections designating the particular issue.” (citations omitted)).

The Court has reviewed the unopposed R&R and, finding no clear error, adopts the R&R in its entirety pursuant to 28 U.S.C. § 636(b)(1). Accordingly, the Court grants Defendants’ motion and dismisses the Complaint for failure to state a claim upon which relief may be granted.¹ The Clerk of Court is directed to close this case.

Dated: January 7, 2019
Brooklyn, New York

SO ORDERED:

s/ MKB
MARGO K. BRODIE
United States District Judge

¹ The Court also adopts Judge Pollak’s unopposed recommendation to dismiss Plaintiff’s Complaint as time-barred for conduct occurring prior to January 2, 2015. (R&R 11.)